

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: PROVIDENCE WATER SUPPLY BOARD'S :
APPLICATION TO CHANGE RATES : **DOCKET NO. 4618**

REPORT AND ORDER

I. Introduction

On April 16, 2016, the Providence Water Supply Board (Providence Water) filed with the Public Utilities Commission (PUC or Commission) a request to increase its rates.¹ The filing sought a 12% increase in revenues, or \$8,328,042, for a total revenue requirement of \$77,728,472, with an effective date of June 16, 2016.² On May 20, 2016, the PUC suspended the proposed effective date to allow it to conduct a full investigation.³

Kent County Water Authority (KCWA), Bristol County Water Authority (BCWA), the City of Warwick, and the City of East Providence each intervened in the case. Thereafter, all parties engaged in extensive discovery and negotiations, resulting in a proposed Settlement Agreement (Settlement) between just Providence Water and the Division of Public Utilities and Carriers (DPUC or Division), with one unresolved issue to be determined by the Commission.⁴ Because the intervenors did not join the Settlement Agreement, the PUC conducted evidentiary hearings on January 24, 2017, January 25, 2017, January 31, 2017, and February 1, 2017.

On February 10, 2017, the Commission rejected the Settlement Agreement as written. The Commission also rejected Providence Water's proposal to increase its allocation for City Services

¹ All filings in this docket are available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or at http://www.ripuc.org/eventsactions/docket/4618-PWSB-Application-FilingRequirement_5-16-16.pdf.

² Providence Water subsequently corrected its rate models twice. The effect was to increase the requested increase to \$8,366,176, or 12.25%, but to reduce the amounts allocated to wholesale customers. First Revised Rate Model (Sept 16, 2016); [http://www.ripuc.org/eventsactions/docket/4618-PWSB-RevisedModels-Smith\(9-16-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-PWSB-RevisedModels-Smith(9-16-16).pdf); and Second Revised Rate Model (Sept. 27, 2016); [http://www.ripuc.org/eventsactions/docket/4618-PWSB-Rev2model-Smith\(9-27-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-PWSB-Rev2model-Smith(9-27-16).pdf).

³ R.I. Gen. Laws §39-3-11.

⁴ The only unresolved issue was the Payment In Lieu of Taxes (PILOT).

and Providence Water's request to make a Payment In Lieu Of Taxes (PILOT) to the City of Providence. The Commission additionally reduced funding of the infrastructure replacement account by \$300,000. The Commission allowed Providence Water a \$5,821,862 increase in its revenue requirement, to support a total cost of service of \$75,305,829. The annual impact on a residential water customer using 100 HCF per year is an increase of \$31.94, from \$399.08 to \$431.02.⁵

II. Providence Water's Filing

This rate filing was the first full rate case Providence Water filed since 2013. The test year was Providence Water's fiscal year ending June 30, 2015. The proposed rate year was Calendar Year 2017. Providence Water proposed an increase of \$8,328,042, including: (1) salary and wages of \$1,472,529, to accommodate step increases, promotions, new positions and collective bargaining agreement provisions;⁶ (2) an increase of \$2,121,987 for pension and other post-employment benefits (OPEB);⁷ (3) annual funding of \$326,000 for a PILOT;⁸ (4) an increase of \$670,690 for insurance, including a \$326,176 increase due to seven employees being out of work on injury;⁹ (5) an increase of \$750,744 to the budget for utilities and maintenance;¹⁰ (6) regulatory and rate case expense of \$451,290, with rate case expense amortized over a two-year period;¹¹ (7) an increase of \$3,600,000 for the Infrastructure Replacement Fund (IFR) to cover applied overhead and direct overtime costs, as well as estimated debt service on bonds;¹² (9) a 4.5% increase in

⁵ Providence Water Rev. Compliance Filing at Sch. HJS-13 Compliance (Feb. 17, 2017).

⁶ Nancy Parrillo Test. at 3, Sch. NEP 2-A (May 16, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Parrillo_5-16-16.pdf

⁷ *Id.* at 8-9, Sch. NEP-3.

⁸ *Id.* at 10-11, Sch. NEP-5.

⁹ *Id.* at 11-12, Sch. NEP-6.

¹⁰ *Id.* at 13-16, Sch. NEP-8.

¹¹ *Id.* at 16-17, Sch. NEP-9.

¹² *Id.* at 19-20, Sch. NEP-12 C.

projected health care expenses for a total rate year expense of \$2,619,634;¹³ (10) an increase to City Services of \$118,233;¹⁴ (11) an increase in the property tax budget of 6.26% to generate an additional \$416,455;¹⁵ and a one-time charge of \$270,600 to bring telephone and internet service to the new Central Operating Facility (COF).¹⁶

Providence Water also sought to decrease its chemical and sludge maintenance fund by \$1,500,000¹⁷ and to reduce its funding level for meter replacement by \$500,000.¹⁸ Providence Water requested permission to transfer \$3,047,949 from its Revenue Reserve Account to several other restricted accounts. Providence Water indicated that no increases were necessary or proposed for its Capital Fund, the Western Cranston Fund, or the equipment/vehicle replacement fund.¹⁹

In support of its application, Providence Water presented testimony from four witnesses: (1) Ricky Caruolo, General Manager; (2) Nancy E. Parrillo, Sr. Manager-Finance; (3) Gregg M. Giasson, Deputy General Manager of Operations/Executive Engineer; and (4) Harold J. Smith, Vice President of Raftelis Financial Consultants, Inc.

Mr. Caruolo provided an overview of Providence Water's general operations, including its personnel and a variety of achievements since 2015. Mr. Caruolo described the progress on Providence Water's new Central Operations Facility which was purchased at the end of 2015 and had an expected renovation completion date of September, 2017.²⁰ He outlined Providence Water's renewable energy efforts and projects, including its solar panel project, and its

¹³ *Id.* at 9, Sch. NEP-3.

¹⁴ *Id.* at 17, Sch. NEP-B.

¹⁵ *Id.* at 9-10, Sch. NEP-4.

¹⁶ *Id.* at 15, Sch. NEP-8A.

¹⁷ *Id.* at 12-13, Sch. NEP-7.

¹⁸ *Id.* at 21, Sch. NEP-11 & 12-D.

¹⁹ *Id.* at 18-24, Sch. NEP-12B & 12-E.

²⁰ Ricky Caruolo Test. at 6 (May 16, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Caruolo_5-16-16.pdf.

investigations into hydro and wind power opportunities.²¹ Mr. Caruolo described Providence Water's staffing requirements and its increased need for personnel relating to water quality issues.²² Finally, Mr. Caruolo argued for the implementation of a PILOT program to permit Providence Water make the City whole from the loss of tax revenue that occurred when Providence Water purchased its new central operations facility from Bank of America which removed the building from the City's tax-roll.²³

Ms. Parrillo outlined the specific financial elements of Providence Water's filing and described the analysis used to derive the proposal. Ms. Parrillo also filed surrebuttal testimony which addressed challenges and criticism filed by the intervenors, and which also identified areas of agreement among the parties.

Mr. Giasson's testimony introduced and explained Providence Water's infrastructure replacement (IFR) plan which called for spending of \$158 million from 2016 through 2021 and a fifteen-year spending plan of \$621 million.²⁴ Major projects included: (1) rehabilitation of water mains at a rate of ten miles per year, which, in 2015, cost \$207 per foot; (2) completion of the filtration system improvements and plant influent projects at the water treatment plant; (3) inspection/repairs of the 78-inch, 102-inch and 90-inch transmission mains; and preliminary design work for the improvements to the clarification system at the water treatment plant.²⁵ The fifteen-year plan was focused on: (1) continued water main rehabilitation; (2) improvements to the clarification system at the water treatment plant, and (3) rehabilitation/ inspection of the 78-inch, 102-inch and 90-inch transmission mains.²⁶ Mr. Giasson explained that because of the magnitude

²¹ *Id.* at 2.

²² *Id.* at 5-7.

²³ *Id.* at 11.

²⁴ Gregg M. Giasson Test. at 3 (May 16, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Gaiison_5-16-16.pdf.

²⁵ *Id.*

²⁶ *Id.* at 4.

and disparity in the eventual project cost for the clarification process improvements, only design and baseline costs were included in the five-year plan. He elucidated that the existing water clarification process is from the original construction in 1920 and is approaching the end of its useful life and Providence Water is concerned that the existing sedimentation basins may not be able to handle future regulatory water quality requirements.²⁷ Therefore, Providence Water has commissioned a pilot study to evaluate alternative treatment processes to replace the existing sedimentation basins. Primary cost estimates to replace the sedimentation basins range from \$90 million to \$146 million.²⁸

Additionally, Providence Water budgeted \$2.5 million in the Capital Improvement Plan to (1) conduct a renewable energy feasibility study to investigate the use of solar panels through either a Power Purchase Agreement or outright purchase; and (2) to purchase solar panels.²⁹ Providence Water earmarked another \$2.0 million to replace its asset management/work order software and system. Providence Water sought \$1.35 million to investigate, design and build an orthophosphate chemical feed system for corrosion control and mitigation of lead spikes.³⁰ Another \$1.0 million was proposed to loop water mains through tie-ins and then evaluate the effectiveness of the program to reduce water stagnation and low flow velocities. Cybersecurity initiatives accounted for another \$1.0 million to \$1.5 million of the plan.³¹

Mr. Giasson stated that in order to carry out its various infrastructure initiatives, Providence Water requested an additional twelve staffing positions: (1) three for the unidirectional

²⁷ *Id.* at 8.

²⁸ *Id.*

²⁹ *Id.* at 10.

³⁰ *Id.*

³¹ *Id.* at 12.

flushing program; (2) four for security; (3) two positions in Information Technology, and (4) three positions carried over from the East Smithfield Water District.³²

Harold Smith conducted a cost of service study (COSS) and provided testimony on cost allocation and rate design which concluded that Providence Water needed additional rate revenue of \$8,328,042 to properly fund operation and maintenance (O&M) and capital costs. Mr. Smith explained that the modified base extra capacity approach he used is the same that Providence Water has utilized in prior rate cases.³³ He reported that the residential customer class is responsible for 66% of the average day demand of the retail class and is therefore allocated 66% of the retail costs associated with meeting average day demand. For the wholesale class, costs are allocated based on their proportionate share of total consumption, with no consideration given to the demand characteristics of the wholesale customers.³⁴

Mr. Smith noted that the study established that the cost allocation model called for an increase of 84% to fire protection to bring the class to its allocated cost of service. However, attempting to mitigate drastic changes and promote gradualism in rates he recommended only an increase of 15%.³⁵

III. The Division of Public Utilities and Carriers

The Division submitted direct and surrebuttal testimony from its consultants, Jerome D. Mierzwa on rate design and Ralph Smith, CPA, on revenue requirement. While Mr. Mierzwa expressed some concerns with Providence Water's COSS, he nevertheless found it reasonable. He agreed that the limit of 15% to the fire protection class was appropriate.³⁶ In surrebuttal testimony,

³² *Id.* at 13.

³³ Harold J. Smith Test. at 8 (May 16, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Smith_5-16-16.pdf.

³⁴ *Id.* at 9.

³⁵ *Id.* at 10-11.

³⁶ Jerome D. Mierzwa Test. at 10 (Oct. 14, 2016); [http://www.ripuc.org/eventsactions/docket/4618-DPU-Mierzwa\(10-14-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-DPU-Mierzwa(10-14-16).pdf).

he also agreed with Providence Water's use of gross plant values to allocate capital costs and with its proposal to allocation a portion of the cost of the new central operations facility to wholesale customers, since they will benefit from the Providence Water's increased operational efficiency.³⁷ Mr. Mierzwa further agreed with Providence Water's approaches to: (1) the separate rates charged to customers of the newly acquired East Smithfield water system; (2) the assignment of lost and unaccounted for water costs; and (3) the assignment of 2% of the costs to wholesale customers for unidirectional flushing.³⁸

Ralph Smith recommended that Providence Water's proposed revenue increase be reduced by \$3,755,259, down to \$4,572,783.³⁹ He opined that Providence Water had overstated the number of employees reasonably expected in the rate year and recommended that Providence Water's request for fourteen additional employees be rejected and its proposed payroll reduced by \$623,020.⁴⁰ He further recommended a \$76,014 reduction to payroll expense to reflect the savings secured by filling open positions with lower salaries.⁴¹ Mr. Smith noted a considerable decrease in overtime expense from the test year compared to the following eleven months. Accordingly, he advocated for a reduction of overtime pay to \$224,475, adjusted further to \$211,133 to reflect a portion that was subject to capitalization.⁴² Mr. Smith proposed a reduction to payroll expense for the rate year of \$961,793 and a payroll clearing expense reduced by \$49,842.⁴³ He estimated the capitalized overheads to be reimbursed from IFR or the capital fund and excluded from O&M

³⁷ Jerome D. Mierzwa Surrebuttal Test. at 4 (Jan.10, 2017); http://www.ripuc.org/eventsactions/docket/4618-DPU-Mierzwa_1-10-17.pdf.

³⁸ *Id.* at 6-7.

³⁹ Ralph Smith Test. at 5 (Oct. 14, 2016), Sch. RCS-1; [http://www.ripuc.org/eventsactions/docket/4618-DPU-Smith-Corrected\(10-14-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-DPU-Smith-Corrected(10-14-16).pdf).

⁴⁰ *Id.* at 8.

⁴¹ *Id.* at 9, Sch. RCS-3 at 1-2.

⁴² *Id.* at 10, Sch. RCS-3.

⁴³ *Id.* at 11-12, Sch. RCS-4 at 1.

expense to be \$1,312,293.⁴⁴ Mr. Smith reduced the rate year benefits expense by \$345,819 for vacant positions and for positions which he contended should not be filled.⁴⁵ Mr. Smith further recommended that payroll tax expense be reduced by \$73,577.⁴⁶

Ralph Smith also reduced insurance expense by \$136,455 because worker's compensation paid to employees in lieu of salary should not be treated as worker's compensation, unless the salary for that employee is credited to the insurance reserve.⁴⁷ As a result of a tax dispute settlement, Providence Water will receive \$1,604,528 from the Town of Foster. Mr. Smith favored a requirement for Providence Water to place those funds in a Property Tax Refund Account and that Providence Water be required to credit customers annually \$175,000 for a period of nine years and \$290,000 in year ten, for a total of approximately \$1.87 million. He opined that the remaining funds in the account should be earmarked for litigation expense related to tax challenges.⁴⁸ He did not endorse Providence Water's request for \$326,000 for a PILOT to compensate the City of Providence for its loss of tax revenue that was caused by Providence Water's purchase of its new central operating facility and its resulting conversion to non-taxable property.⁴⁹ Mr. Smith found that the amount proposed by Providence Water for miscellaneous revenue should be increased by \$52,429, to bring it up to the level reflected by a three-year average of this fund.⁵⁰ Finally, he urged annual reductions in three restricted accounts to offset the proposed rate increase: (1) reduce the Western Cranston Fund by \$22,069; (2) reduce the Insurance account by \$238,568; and, (3) reduce the chemical and sludge account funding by \$200,000.⁵¹

⁴⁴ *Id.*

⁴⁵ *Id.* at 15.

⁴⁶ *Id.* at 16.

⁴⁷ *Id.* at 17.

⁴⁸ *Id.* at 24, Sch. RCS-9.

⁴⁹ *Id.* at 27.

⁵⁰ *Id.* at 35-36.

⁵¹ *Id.* at 36.

IV. Bristol County Water Authority

BCWA presented direct and surrebuttal testimony from its Executive Director and Chief Engineer, Pamela Marchand. She indicated that BCWA had four main concerns remaining with Providence Water's filing: (1) cost overruns for the Central Operations Facility; (2) request for a PILOT; (3) unaccounted-for-water calculation; and (4) allocation of unidirectional flushing costs to wholesale customer.⁵²

BCWA objected to alleged cost overruns totaling over a million dollars for the Central Operating Facility. Further, BCWA opposed Providence Water's request for the PILOT. The wholesale customer's proposed share of this PILOT was \$69,750. Ms. Marchand expressed concern that, if approved, the PILOT would grow in future years, with more costs being assigned to wholesale customers.⁵³

Ms. Marchand explained that BCWA was also concerned about the amount of water Providence Water uses for continuous running of blow-offs and the flushing of the distribution system for water quality, summer open hydrants, construction, meter error and unauthorized water usage in the distribution system. If these amounts of water use are not deducted, she claimed the proportionate share of water leakage attributed to transmission pipes is significantly overstated. Therefore, BCWA urged the Commission to deduct water used for flushing, running bleeders or blow-offs, and fire department use from any unaccounted-for-water allocated to wholesale customers, arguing that these were only distribution costs.⁵⁴

⁵² Pamela Marchand Test. at 2 (Oct. 14, 2016); [http://www.ripuc.org/eventsactions/docket/4618-BCWA-Marchand\(10-14-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-BCWA-Marchand(10-14-16).pdf); Marchand Surrebuttal Test. at 1-2 (Jan. 10, 2017); http://www.ripuc.org/eventsactions/docket/4618-BCWA-Marchand_1-10-17.pdf.

⁵³ Marchand Test. at 5.

⁵⁴ *Id.* at 5-7.

In her surrebuttal testimony, Ms. Marchand also advocated against Providence Water's request to withdraw \$3,047,949 from the restricted Revenue Reserve Fund and transfer to other restricted accounts. Instead, BCWA favored using those funds to offset the requested rate increase.⁵⁵

V. Kent County Water Authority

KCWA submitted direct and surrebuttal testimony from its consultant, Christopher Woodcock.⁵⁶ Mr. Woodcock opposed a PILOT in any amount because, he noted, Providence Water is a department of the City of Providence and no other city department pays taxes to the City. By contrast, KCWA's PILOT to communities and fire districts is statutorily authorized and its sanctioned PILOT payments are fixed at the same level as the amount being paid as taxes at the time KCWA acquired various properties.⁵⁷ Mr. Woodcock stated that the PUC has consistently ruled against PILOT payments and should continue to do so.⁵⁸

Mr. Woodcock also opposed any costs associated with Providence Water's central operations facility being assessed against wholesale customers and insisted instead, that all costs be allocated to retail customers, as he claimed was decided in PUC Docket No. 4571.⁵⁹ Similarly, Mr. Woodcock argued that any costs associated with adding East Smithfield customers to Providence Water's retail customer group should be assessed only to retail customers and not wholesale customers.⁶⁰

⁵⁵ Marchand Surrebuttal Test. at 4.

⁵⁶ Woodcock Test. (Oct. 17, 2016); [http://www.ripuc.org/eventsactions/docket/4618-KCWA-Woodcock\(10-17-16\).pdf](http://www.ripuc.org/eventsactions/docket/4618-KCWA-Woodcock(10-17-16).pdf) and Woodcock Surrebuttal Test.(Jan. 10, 2017) http://www.ripuc.org/eventsactions/docket/4618-KCWA-Woodcock_1-10-17.pdf.

⁵⁷ Woodcock Test. at 5.

⁵⁸ *Id.*

⁵⁹ *Id.* at 7.

⁶⁰ *Id.* at 9.

Mr. Woodcock discussed Providence Water's problems with asset valuation and suggested that it would be better to allocate the capital costs using the gross (undepreciated) values. He further highlighted inconsistencies with Providence Water's filing on the issue of ownership of the Academy Avenue office site and opined that this issue should be conclusively resolved in this case.⁶¹ He suggested that the Commission provide guidance in this docket on how the future proceeds from the sale of Academy Avenue facility will be treated.⁶²

Mr. Woodcock disputed the amount of rate case expense sought by Providence Water, alleging that Providence Water's request to include expenses related to Docket No. 4571, was requesting recovery after the fact and, as such, was impermissible retroactive ratemaking.⁶³

In his surrebuttal testimony, Mr. Woodcock advocated for a 30% increase in fire protection charges rather than 15%, to be consistent with the PUC's decision in KCWA Docket No. 4611. Mr. Woodcock agreed with BCWA's witness Pamela Marchand that Providence Water be required to identify lost and unaccounted for water and to assign water losses associated with under-registering meters, water used in fire-fighting and fire training, flushing programs, street cleaning, unmetered public use and water used in construction, to retail customers only.⁶⁴ He urged the Commission to order Providence Water to prepare a full cost of service study without previously approved Commission-adjusted allocators in the next rate case.⁶⁵

VI. Proposed Settlement Agreement

On January 23, 2017, Providence Water filed a Settlement Agreement (Settlement), resolving all the issues between Providence Water and the Division, except for the issue of the

⁶¹ *Id.* at 11-12.

⁶² *Id.* at 15.

⁶³ *Id.* at 14.

⁶⁴ *Id.* at 9.

⁶⁵ *Id.* at 6-7.

PILOT.⁶⁶ The settling parties agreed that the PUC would have to determine the outcome of this contested issue.⁶⁷ The settling parties agreed to a rate year increase in revenues of \$6,502,294, an increase of 9.3%, to support a total revenue requirement of \$76,060,343. The parties had agreed to several revenue adjustments.⁶⁸ The parties also agreed to several expense adjustments including payroll and related accounts, insurance, capital reimbursement adjustment, chemicals and sludge, and the Western Cranston reserve fund.⁶⁹ The parties also agreed to increase rate case expense to reflect the most recent annual assessments for PUC and Division expenses.⁷⁰ The Settlement also called for funding a shortfall in the Capital Account from the Revenue Reserve Fund. Providence Water agreed to withdraw its request for Revenue Reserve funding for other restricted funds. Providence Water consented to a requirement that it promptly notify the Commission, if and when, the Academy Avenue site is sold.⁷¹

VII. Findings

Following four days of evidentiary hearings, at an Open Meeting held on February 10, 2017, the PUC voted 2-1 to reject the proposed Settlement, as a whole.⁷² Thereafter, the Commission addressed the individual issues.⁷³

A. Consumption

Ms. Parrillo testified that the proposed consumption for both retail and wholesale was based upon the average consumption for the three years prior to filing (FY13-FY15), with retail sales adjusted to include sales to customers in the newly acquired East Smithfield service area.

⁶⁶ Proposed Settlement Agreement between Providence Water and Division (Jan. 23, 2017); [http://www.ripuc.org/eventsactions/docket/4618-PWSB-SettlementAgreement\(1-23-17\).pdf](http://www.ripuc.org/eventsactions/docket/4618-PWSB-SettlementAgreement(1-23-17).pdf).

⁶⁷ None of the Intervenors were parties to the Settlement.

⁶⁸ Settlement at Par. 1 & Par. 3A (1)-(3).

⁶⁹ Settlement at Par. 3 B (1)-(12).

⁷⁰ Settlement at Par. 3 (C) (1).

⁷¹ Settlement at Par. 3(D) (1)-(3).

⁷² Open Meeting Minutes (Feb. 10, 2017); <http://www.ripuc.org/eventsactions/minutes/021017.pdf>.

⁷³ This order addresses the issues in the same sequence undertaken at the Open Meeting.

Providence Water also made a commensurate adjustment to wholesale customers to reflect that East Smithfield will no longer be a wholesale customer. Ms. Parrillo noted that Providence Water adjusted its projected wholesale water sales to KCWA, based upon KCWA's water purchase projections provided in its recent rate filing in Docket No. 4611.⁷⁴ Mr. Woodcock argued that the sales assigned to KCWA for this docket should only reflect Providence Water's updated sales to KCWA as of June 2016.⁷⁵ The Commission unanimously approved a consumption level of 25,850,848 HCF, based on the most recently available three-year average from FY14 through FY16. This adjustment accounted for a downward trend in consumption. The approved consumption level was 63,606 HCF lower than Providence Water's initial projection.

B. Personnel/Payroll

Providence Water's filing calculated its test year personnel expense at \$14,488,400.⁷⁶ From this base amount, Providence Water added funding for fourteen new positions, to a new base personnel budget of \$15,436,121.⁷⁷ Then, Providence Water increased this amount by 3.4% which was the compounded wage increase called for in the collective bargaining agreement, with the increases taking effect on July 1, 2016 and again on July 1, 2017. These calculations increased salaries of \$14,488,400 in the adjusted test year to \$15,960,949 for the rate year, a \$1,472,549 increase.⁷⁸

Providence Water witness Caruolo identified and explained Providence Water's need for additional personnel. He stated that Providence Water's funding was cut in Docket No. 4406 to 240 full-time employees, which is closer to Providence Water's 1995 staffing levels. He claimed

⁷⁴ Parrillo Test. at 7.

⁷⁵ Woodcock Test. at 13.

⁷⁶ Parrillo Test. at 8, Sch. NEP2 and NEP 2A.

⁷⁷ *Id.* at Sch. NEP-2.

⁷⁸ *Id.*

that duties and responsibilities have increased significantly over the years and that Providence Water needed 254 employees to operate efficiently, especially in the areas of water quality, cyber security and security of the watershed, water sources, treatment plant, and distribution system.⁷⁹

Mr. Caruolo indicated that Providence Water sought three employees in connection with its acquisition of the East Smithfield Water District: (1) Billing Supervisor in the Customer Service Dept.; (2) Project Coordinator in the Transmission & Distribution (T&D) Department; and (3) Project Coordinator in the Engineering Dept.⁸⁰ Additionally, in rebuttal testimony, Providence Water changed its request from two Flushing Technicians and three Utility Worker in Training (UWIT) positions to five UWITs.

Mr. Caruolo described Providence Water's increased security needs due to the construction of the new Central Operations Facility, the expansion of its distribution system through the acquisition of East Smithfield Water District, and land acquisition to preserve the watershed. He testified that Watershed Inspectors are responsible for monitoring key infrastructure and ninety-four square miles of activity on the watershed. Providence Water requested four additional Watershed Inspectors.⁸¹

Mr. Caruolo testified that increased cybersecurity issues, which require attention 24/7, have pulled valuable IT (Information Technology) personnel away from supporting the IT infrastructure. He explained that the IT department is responsible for maintaining the IT infrastructure throughout four buildings and eleven pump stations. The IT department maintains all routers, switchers, approximately eighty servers, 160 desk top computers, fifty mobile devices

⁷⁹ Caruolo Rebuttal Test. at 3 (Dec. 9, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Caruolo_12-9-16.pdf.

⁸⁰ *Id.* at 4.

⁸¹ *Id.* at 9.

and sixty printers. Providence Water requested two IT positions: (1) a Director of IT; and (2) Technical writer/administrator.⁸²

Division witness Ralph Smith did not support the increased payroll expense. He noted that based on the Company's historical level of staffing, that Providence did not justify its requested payroll expense for fourteen new positions or 254 employees. He noted that Providence Water's historical staffing levels were well below the request.⁸³ He recommended that all fourteen new positions be eliminated from the budget.⁸⁴ In his surrebuttal testimony, Mr. Smith maintained his position that Providence Water did not need new positions. He further argued that Providence Water's employee turnover rate was such that Providence Water had not established that it could fill all the positions by the effective date of new rates, even if allowed.

The proposed Settlement decreased the requested positions by four. At the hearing, Mr. Ralph Smith testified that the Division had agreed that removing funding for four of the requested positions was sufficient and believed the proposal to be fair, reasonable, and in the best interest of ratepayers.⁸⁵

The Commission unanimously approved a payroll/personnel expense in the amount of \$15,280,225 which represented: (1) \$14,506,295 (2017 payroll including one half of 2018 step increase); (2) plus updated overtime of \$849,944, based on average of FY 14-FY 16; (3) and a reduction of \$76,014 for an employee turnover allowance.⁸⁶ Throughout this docket, it was difficult for the Commission to ascertain a reliable employee count. According to Providence

⁸² Giasson Test. at 14-15.

⁸³ Ralph Smith Test. at 8.

⁸⁴ *Id.*

⁸⁵ Hr. 'g Tr. at 41 (Jan. 25, 2017).

⁸⁶ PUC Open Meeting Minutes at 3 (Feb. 10, 2017).

Water, the Settlement Agreement contemplated 250 full time equivalents and eleven part-time employees.

The Commission recognizes that personnel counts and expense fluctuate naturally with customer turnover. However, it appeared from the testimony in this case that Providence Water had been operating with several fewer employees than were funded in the prior rate case. Mr. Caruolo recognized that, testified to the need for additional full time equivalents. Based on the testimony from the Division, the Commission finds that this decision is reasonable in this case. But Providence Water, and all utilities, should remember that they must provide consistent data to the Commission in rate cases to justify all expenditures.

C. City Services

City Service expense compensates city departments for support they provide to Providence Water and is an area ripe for dispute in virtually every rate case. The Commission has previously held that, to the extent possible, the compensation paid to municipal departments for assistance they provide to their ratepayer-funded water departments should be determined using a methodology that is based either on actual costs or some objective measure related to the amount of support provided by the department.⁸⁷

Providence Water sought \$957,400 for City Services, an increase of \$118,233. Ms. Parrillo testified that this amount was calculated by starting with \$839,167, the amount approved for City Services in Docket No. 3832, in 2008. That base amount was then increased by the change in the CPI-All Urban Consumer Index (CPI-U) for the period 2009-2016, resulting in a pro-forma City

⁸⁷ Order No. 19671 at 10 (June 19, 2009), Pawtucket Water Supply Board: General Rate Filing; <https://clerkshq.com/Content/PUC-ri/orders/2009/19671.htm>; Order No. 19940 at 61-64 (Mar. 29, 2010), City of Newport, Water Division, Application to Change Rate Schedules (Docket No. 4025); <https://clerkshq.com/Content/PUC-ri/orders/2010/19940.htm>; Order No. 23605 (May 31, 2019), City of Woonsocket Water Division's Application to Implement Multi-Year Rate Plan; <https://clerkshq.com/Content/PUC-ri/orders/2019/23605.htm>.

Services amount of \$957,400. Providence Water argued that over the seven-year period since its last increase in City Services, many of the City's operational costs, which benefit Providence Water, have increased. From 2008-2017, City personnel received contractual salary increases totaling 13.75%.⁸⁸ The Division did not address this issue in its testimony. At the hearing, Division witness Ralph Smith explained that after reviewing discovery, the Division found that an increase was not necessary.⁸⁹

The Commission noted that in Docket No. 3832, Providence Water had failed to meet the evidentiary burden for its requested increase in City Services. In that case, the Commission held:

Therefore, because the Commission does not have sufficient evidence upon which to make a determination as to the just and reasonableness of the parties' respective positions, but recognizes that there are services provided to Providence Water by the City, the Commission is taking the last approved City Services Expense of \$729,994 and increasing it by the 2.5 percent inflationary level that has been agreed to in this rate filing in order to adjust from Rate Year 2006 to Rate Year 2008.⁹⁰

The Commission also stated: "all regulated municipal water utilities are now on notice that in the future, the Commission will approve only verifiable departmental expenses charged by the City Departments to the respective water boards, departments or divisions for services rendered."⁹¹

In this matter, Providence Water acknowledged that it had no detailed analysis of City Services expense allocable to Providence Water. This was confirmed by Ms. Parrillo at the hearings.⁹² Therefore, a majority of the Commission rejected Providence Water's increased funding request for City Services finding that Providence Water had not complied with the Commission's prior directive that a cost allocation manual would be required.⁹³ Funding in the

⁸⁸ Parrillo Test. at 17, Sch. NEP-B.

⁸⁹ Hr'g. Tr. at 60 (Jan. 25, 2017).

⁹⁰ PUC Order No. 19145 at 70; [http://www.ripuc.org/eventsactions/docket/3832-PWSB-Ord19145\(12-13-07\).pdf](http://www.ripuc.org/eventsactions/docket/3832-PWSB-Ord19145(12-13-07).pdf).

⁹¹ *Id.* at 70.

⁹² Providence Water Response to PUC 2-7 (Jan. 17, 2017); <http://www.ripuc.org/eventsactions/docket/4618-PWSB-DR-PUC2.pdf>; Hr'g Tr. at 43-44 (Jan. 31, 2017).

⁹³ PUC Open Meeting Minutes at 3 (Feb. 10, 2017).

rate year will remain at \$839,167 for City Service expense, a \$118,233 downward adjustment to the amount requested.

D. Rate Case and Regulatory Expense

Providence Water's rate filing originally included regulatory commission expense of \$299,062 and a rate case expense of \$304,456, of which \$97,696 was for Docket No 4571. Providence Water sought to amortize the \$304,456 over a two-year period at the annual rate of \$152,228.⁹⁴ KCWA objected to the inclusion of rate case expenses from Docket No. 4571, arguing that approval of such expense would constitute retroactive rate-making.⁹⁵ Mr. Woodcock claimed that Commission procedural rule 2.10(b) does not specifically permit recovery of rate case expense in abbreviated filings and that Providence Water did not claim those expenses in its abbreviated filing in Docket 4571. He argued that Providence Water should not be permitted to claim those expenses in this filing because they are not rate year costs.⁹⁶ In his surrebuttal testimony, Woodcock further asserted that in its last rate case, Providence Water was granted a two percent operating revenue allowance and that by September 2017, Providence Water will have recovered all its rate case expenses through this additional operating revenue.⁹⁷

In her rebuttal testimony, Ms. Parrillo increased Providence Water's annual DPUC and PUC assessment by \$26,884 to reflect actual current billing of \$302,024.75.⁹⁸ She argued that allowing recovery of rate case costs from Providence Water's Docket No. 4571 would not be contrary to Commission practice. She asserted that recovery of rate case expense on an amortized basis is an exception to retroactive rate-making principles because these expenses are always

⁹⁴ Parrillo Test. at 16, Sch. NEP-9.

⁹⁵ Woodcock Test. at 14.

⁹⁶ *Id.* at 14.

⁹⁷ Woodcock Surrebuttal Test. at 19.

⁹⁸ Parrillo Rebuttal Test. at 9 (Dec. 9, 2016); http://www.ripuc.org/eventsactions/docket/4618-PWSB-Parrillo_12-9-16.pdf.

incurred, paid, documented, and then incorporated as an expense in a rate proceeding.⁹⁹ Finally, Ms. Parrillo disputed Mr. Woodcock's claim that these expenses were not part of Docket No. 4571, because Providence Water filed a Summary of Estimated Expenses in that Docket, in accordance with the Commission's Rules of Practice & Procedure, Part II.¹⁰⁰

At the hearing, Providence Water submitted an updated rate case and regulatory expense summary which included an estimate from the Division of \$350,000 for its 2018 regulatory expenses. The PUC unanimously approved an allowance of \$349,933 for regulatory expense which was an average of 2017 expenses (\$325,945) and 2018 projected expenses (\$373,921).¹⁰¹ The Commission also unanimously agreed to approve Providence Water's request to recover rate case expense in the amount of \$97,696 from Docket No. 4571 due to lack of clarity in the Commission's rules.¹⁰² The PUC approved rate case expense of \$231,760 amortized over two years.

E. Restricted Accounts

1. Reporting requirements

The Commission voted unanimously to order Providence Water to continue with current reporting requirements. Providence Water was ordered to meet with PUC staff and the Division to develop quarterly reporting requirements. The Commission further decided that Providence Water shall remove the "due to/due from" designations in its financial reporting.¹⁰³

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Proposed Settlement at Section 3 (C).

¹⁰² PUC Minutes at 3 (Feb. 10, 2017).

¹⁰³ PUC Open Meeting Minutes (Feb. 10, 2017).

2. Revenue Reserve to Capital

Providence Water reported that in FY 2010, it experienced a shortfall in billings of \$3.8 million from the prior year's revenue. The shortfall was managed by underfunding restricted accounts by a total of \$3,047,949, as follows: (1) Capital Fund \$1,225,000; (2) AMR/meter \$750,000; (3) Insurance \$741,914; (4) Equipment/Vehicle Replacement \$300,000; and (5) Western Cranston Fund \$31,035. Providence Water advised that it had been carrying these amounts in its general operating fund as balances "due to" to the restricted funds since 2010 and reporting the same in its restricted funds reporting.¹⁰⁴ Providence Water requested permission to transfer the amounts owed to these restricted funds from its Revenue Reserve fund balance.

BCWA witness Marchand opposed Providence Water's request to fund the restricted accounts and noted that in addition to these restricted accounts, Providence Water also had restricted accounts for IFR Replacement, Chemicals/Sludge, Property Tax Refund and Revenue Reserve. According to Providence Water's filing, these nine accounts had a total of \$14,949,253 of combined balances at the end of FY 2016. Therefore, Ms. Marchand advocated for a portion of these balances to be used to reduce the rate increase sought in this docket.¹⁰⁵

Division witness Ralph Smith did not object to funding the Capital Fund shortfall in the amount of \$1.225 million but did recommend that Providence Water be required to offset its rate increase by use of other restricted funds. In the proposed Settlement, the parties agreed to the \$1.225 million transfer to the Capital Fund, in exchange for Providence Water's agreement to withdraw its request for finding to other restricted accounts. Providence Water agreed to withdraw its request to have the Revenue Reserve Fund provide funding to the other four other restricted funds.¹⁰⁶

¹⁰⁴ Parrillo Test. at 24.

¹⁰⁵ Marchand Surrebuttal Test. at 4.

¹⁰⁶ Proposed Settlement at Section D (1).

The Commission unanimously supported the transfer of \$1.225 million from the Revenue Reserves to Capital to address the shortfall from 2010. The Commission further voted unanimously to disallow transfers from the Revenue Reserve to any other restricted accounts. The revenue reserve account is a restricted account that was originally designed to accrue to a cap of two times the total annual operating revenue allowance. The fund was designated to be drawn on, with Commission approval, when there is a shortfall in revenues, such as from a reduction in sales volume. The transfer of \$1.225 million would bring the account below the previously approved cap. Providence Water disputed that the Commission had continued to order the accrual in the account to be capped. For clarity, the PUC ordered that fund will continue to be funded at 2% of revenues and will accrue to a cap of 6%.¹⁰⁷ If the restricted revenue reserve fund reaches the cap prior to the filing of the next rate case, Providence Water shall advise the Commission and propose a mechanism for ceasing funding or for use of the collections for the benefit of ratepayers.

3. Infrastructure Replacement Funding (IFR)

Providence Water sought an increase of \$3.6 million from its present annual funding of \$24 million. Ms. Parrillo explained that the \$3.6 million was needed to capture applied overhead amounts and IFR direct labor costs, as well as to pay additional debt service on a bond to fund the water main rehabilitation projects.¹⁰⁸ She related that the current IFR plan calls for fifty-four projects with projected costs in FY 2017 of \$22,174,000 and projected costs in FY 2018 of \$23,458,000. Three projects account for the bulk of spending: (1) inspection and rehabilitation of the 78-inch aqueduct; (2) sedimentation/ clarification improvements; and (3) replacement and upgrade of water mains.

¹⁰⁷ The total operating allowance remains at 3% of revenues with 2% restricted in the revenue reserve fund and 1% unrestricted.

¹⁰⁸ Parrillo Test. at 19-20.

Of the increase, approximately \$2.1 million was for capitalized labor and overhead. According to Providence Water's response to Record Request # 28, Providence Water claimed that the \$2.1 million was based on the three-year average of actual capitalized labor for FY14-FY 16. However, based on Providence Water's semi-annual reports filed with the Commission for that same period, the actual three-year average was slightly under \$1.8 million, a difference of \$300,000. Therefore, the Commission voted unanimously to make a downward adjustment of \$300,000 to IFR funding to reflect the three-year historical average.

4. Insurance

Providence Water sought to increase its insurance funding by \$670,690, for a total expense of \$2,473,237.¹⁰⁹ Ms. Parrillo testified that Providence Water's property and casualty insurance needs increased to provide coverage for the new central operations facility, two pump stations and a building acquired through the East Smithfield Water District acquisition. The second major addition to insurance expense is \$326,176 in Worker's Compensation, due to seven employees out of work with injuries.¹¹⁰

Division witness Ralph Smith made a downward adjustment of \$136,455 of insurance expense, because this amount was already reflected in payroll expense as salaries.¹¹¹ Mr. Smith recommended that the Restricted Insurance Fund's annual funding be reduced by an additional \$102,113 for a total reduction of total \$238,568, and that these funds be used to offset the rate increase.¹¹²

In rebuttal testimony, Ms. Parrillo agreed with Mr. Smith's proposed reduction to worker's compensation insurance, but vigorously opposed his recommendation to reduce the annual funding

¹⁰⁹ *Id.* at 12, Sch. NEP-6.

¹¹⁰ *Id.*

¹¹¹ Ralph Smith Test. at 17, Sch. RCS-8.

¹¹² *Id.* at 38; Sch. RCS-12.

to Providence Water's restricted insurance account. Ms. Parrillo argued that the necessity and appropriateness of maintaining a balance of at least \$2.0 million was explained in great length and detail in Docket No 4406, in Providence Water's response to Div. 1-34. She attached a copy of this prior response as an exhibit to her rebuttal testimony.¹¹³

In surrebuttal testimony, Mr. Smith indicated that he had reviewed Ms. Parrillo's rebuttal testimony and the accompanying documentation from Docket No 4406. Based upon this information, he revised his opinion concerning the insurance fund and dropped his request for the additional \$102,113 in reduced funding.¹¹⁴

Funding of this account was \$1,802,547.¹¹⁵ The Commission unanimously approved an annual insurance funding of \$2,302,113, finding this amount to be supported by the record. At the hearing, Ms. Parrillo explained that this account includes funding for premiums, deductibles, and safety equipment. However, a review of Providence Water's information revealed that it was also paying a Cox cable bill out of this fund. The Commission disallowed continued payment of the Cox cable bill from this account, finding that it did not fit within the parameters of an insurance account. The Commission also ordered Providence Water to submit quarterly reporting on the account activity with an explanation of how any non-premium, non-deductible, and non-claim payments reduce Providence Water's insurance expense.¹¹⁶

5. Western Cranston Fund

Ms. Parrillo explained that the Western Cranston Fund is funded through impact fees from new development in the Western Cranston area. The funds are restricted for maintaining and improving the water delivery system in Western Cranston. The impact fees are used to pay the

¹¹³ Parrillo Rebuttal at Sch. NEP-REB-2.

¹¹⁴ Ralph Smith Surrebuttal Test. at 5-6.

¹¹⁵ Schedule HJS-1.

¹¹⁶ PUC Open Meeting Minutes at 4 (Feb. 10, 2017)

debt service on bonds that were issued to upgrade sections of the system in 2009 and to cover the costs of cash funded projects as well. Providence Water proposed level funding of the Western Cranston Fund at \$62,069.¹¹⁷ The Division proposed reducing this funding to \$40,000 annually.¹¹⁸

In rebuttal testimony, Ms. Parrillo testified that the Division's proposal would leave the fund in a negative position at the end of FY 2021. She projected an ending balance for the end of FY 2020 of \$51,905 and for FY 2021, a negative balance of \$62,838.¹¹⁹ Division witness Smith was not swayed by Ms. Parrillo's rebuttal testimony and in his surrebuttal testimony, continued to advocate for only \$40,000 per year in funding.

In the proposed Settlement, the Providence Water agreed to the Division's adjustment and agreed to fund the Western Cranston Fund at \$40,000. The Commission, noting that the parties had reached an agreement in the proposed settlement, unanimously ordered funding of \$40,000 for the Western Cranston Fund. The end of FY 2021 is more than three years beyond the end of the rate year. It is likely Providence Water and the Commission will have the opportunity to revisit this issue in a rate case prior to that time.

6. Property Tax – Foster Tax Refund

In June 2015, Providence Water and the Town of Foster, Rhode Island entered into a settlement of a property tax dispute. Pursuant to that settlement, Providence Water had received a total of \$350,000 and will continue to receive \$175,000 annually for nine years from the Town of Foster. These funds are placed into a restricted account and may be used to pay expenses related to tax appeals, litigation, legal expenses and property appraisals.¹²⁰ Ms. Parrillo testified that Providence Water had filed a request in June 2016 with the PUC to utilize these funds to finance

¹¹⁷ Parrillo Test. at 19, NEP -12B.

¹¹⁸ Ralph Smith Test. at 38, Sch. RCS-12.

¹¹⁹ Parrillo Rebuttal Test. at 10.

¹²⁰ Parrillo Rebuttal Test. at 6.

improvements in the watershed, asserting that such improvements will benefit all of Providence Water's customers.¹²¹

The Division noted that Providence Water had not included these funds in its revenue requirement but did include other restricted accounts.¹²² Providence Water claimed that it did not include the funds due to the use restriction imposed upon similar funds in Docket No. 3832 (PUC Order No. 19145.) Mr. Smith noted that when Providence Water received a property tax refund from the City of Cranston of \$1,510,096, customers were credited with a total of \$1,125,000, paid over a three-year period at the rate of \$375,000.¹²³ He argued that there was no reason why a similar treatment should not occur in this case. Therefore, he recommended that the Commission direct Providence Water to reflect the Town of Foster refund of \$1,604,528 in the Property Tax refund account, and to credit customers annually \$175,000 for nine years, for a total of \$1,575,000. He advocated that the remaining balance should be restricted to litigation expenses related to property tax challenges, but not increased property taxes.¹²⁴

In the proposed Settlement, Providence Water and the Division agreed to add \$175,000 to the pro forma revenues to reflect the annual tax refund. Additionally, for the funds already received in 2015 and 2016, totaling \$350,000, the agreement proposed that these funds be added to proforma revenues over a three year period of \$116,700.¹²⁵ KCWA witness Woodcock agreed with the Division's approach to the Foster tax refunds and claimed that Providence Water did not submit any testimony or evidence, in this docket, for any other uses for these funds.¹²⁶ The

¹²¹ *Id.* at Sch. NEP-REB-4A, 4B, & 4C.

¹²² Ralph Smith Test. at 19; Parrillo Test. at Sch. NEP-11 and HJS-1.

¹²³ Ralph Smith Test. at 24.

¹²⁴ *Id.*

¹²⁵ Proposed Settlement at 3A (3).

¹²⁶ Woodcock Surrebuttal Test. at 7.

Commission voted unanimously to adopt the Division's proposal which Providence Water had accepted via the proposed settlement.

7. Chemicals

Providence Water's filing established that the balance in the restricted account was projected to be \$2,232,855 at the end of FY 2016.¹²⁷ Providence Water estimated a significant decrease in expected chemical use at the treatment plant, resulting in a decrease in anticipated chemical expense of \$59,173 in the rate year.¹²⁸ Funding for chemicals and sludge has been \$4.5 million per year which has resulted in a consistent carry-forward balance of approximately \$2.0 million for each of the last three years. Therefore, Providence Water requested that funding for this account be reduced from \$4.5 million per year to \$3.0 million per year.¹²⁹

Division witness Ralph Smith proposed annual combined funding for chemicals and sludge at \$2.8 million, \$200,000 less than proposed by Providence Water.¹³⁰ In surrebuttal testimony, Providence Water agreed to the Division's recommendation.¹³¹ The Commission voted unanimously to approve funding for the chemical and sludge account at \$2.8 million.

8. AMR/Meter Replacement

The AMR/Meter Replacement Fund was established to cover the cost to upgrade the manual meter reading system to an automated reading system and to provide funding for the replacement of meters as they reach the end of their useful life, or are broken or damaged over time. The fund had authorized annual funding of \$1,000,000. However, due to Providence Water's receipt of ARRA¹³² funding which provided low cost funds in lieu of cash for the purchase

¹²⁷ Parrillo Test. at Sch. NEP 12-G.

¹²⁸ Parrillo Test. at 12.

¹²⁹ *Id.* at 13.

¹³⁰ Ralph Smith Test. at 38.

¹³¹ Parrillo Surrebuttal Test. at 11.

¹³² The American Recovery and Reinvestment Act of 2009.

of necessary meters, the fund will have an approximate balance at the end of 2016 of \$3.1 million.¹³³ Providence Water proposed reducing the annual funding from \$1.0 million to \$500,000.¹³⁴

Ms. Parrillo testified that Providence Water had been spending approximately \$600,000 to \$700,000 per year on meter replacement. However, with Providence Water's acquisition of the East Smithfield Water District, that figure was projected to rise to \$1.2 million because all 4,500 East Smithfield meters would need to be replaced.¹³⁵ The Commission approved the funding proposed by Providence Water and ordered the continued restriction of the AMR/Meter Replacement fund.

9. Lead Service Replacement Program

Providence Water requested an annual allocation of \$250,000 to be used on a lead education outreach program throughout its customer base. Mr. Caruolo explained that while there are approximately 13,800 public side lead services in its system, the number of private side lead services is greater. Therefore, replacing public side services will not solve lead issues that may arise in a customer's home. Providence Water proposed a lead education outreach program, to include: (1) lead education handouts in both English and Spanish; (2) lead testing kits; (3) lead service replacement quotes; and (4) three-year, low interest loans for lead service replacement.¹³⁶

At hearing, Mr. Giasson, Providence Water's engineer, testified that when Providence Water replaces a main in a street, the utility contacts nearby property owners and offers to replace their private services for a financed amount of \$2,400. Repayment terms are \$200.00 per month

¹³³ Parrillo Test. at 21.

¹³⁴ *Id.* at 6, NEP-11.

¹³⁵ Hr'g. Tr. at 136-137 (Jan. 31, 2017).

¹³⁶ Caruolo Test. at 5; Providence Water's Response to RR-10 (Feb. 3, 2017); <http://www.ripuc.org/eventsactions/docket/4618-PWSB-RR10,11,12,16,19,22,23,24&26.pdf>.

for twelve months, plus 1% interest per month.¹³⁷ He explained that very few property owners have participated and have identified the monthly cost as a barrier to participation.¹³⁸ The proposal was to incentivize customers to replace their private services by providing three-year, no interest loans from a restricted revolving fund.¹³⁹ Providence Water anticipated that funds from repaid loans will be placed back into the restricted account for revolving lending to other customers.¹⁴⁰ The funds would also be used for outreach purposes to notify customers of the program. Providence Water estimated the cost of direct mailing to customers to advertise the program at \$10,000 annually.¹⁴¹ Providence Water further estimated that with \$250,000 in the fund, it would be able to replace approximately 100 services annually.¹⁴²

Several questions about the details of the program remained following Mr. Caruolo's testimony. Providence Water subsequently provided additional program detail, including a proposed "Private Side Water Service Pipe Replacement and Payment Agreement Form which, in part, explained the proffered "extended payment with 0% interest charge."¹⁴³ The funds would be restricted and treated as a revolving loan. If a customer who participates sells his or her property prior to completion of repayment, the balance would be due as part of the closing.¹⁴⁴ Providence Water also reported that in 2015, only 32 private side lead services were replaced and in 2016, that number rose to 125. Of these, 36 replacements were multi-family properties, with the balance being single family homes.¹⁴⁵

¹³⁷ Hr'g. Tr. at 222, 233 (Jan. 25, 2017).

¹³⁸ *Id.* at 236.

¹³⁹ Providence Water's Response to RR-10.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Providence Water's Response to RR-10-A (Private Side Water Service Pipe Replacement and Payment Agreement Form).

¹⁴⁴ Providence Water's Response to RR-10.

¹⁴⁵ Providence Water's Response to RR-12.

Neither the Division nor any of the Intervenors had any objections to Providence Water's plan to create the revolving loan fund. The Commission approved of Providence Water's evolution of the program as a positive step in the efforts to reduce the number of private side lead services. The Commission unanimously approved \$250,000 in annual funding and ordered Providence Water to work with the Division and PUC staff to develop a report. The PUC further directed Providence Water to target locations that would provide maximum benefit under the program and to prioritize them.

10. Central Operations Facility

Mr. Caruolo reported on the status of Providence Water's new Central Operations Facility located on Dupont Drive. He stated that Providence Water had received revenue bonds from the Drinking Water State Revolving Fund at an effective interest rate of approximately 1.775%. The construction contract was awarded to Dimeo Construction on March 16, 2016, and the estimated completion date was September 2017. Mr. Caruolo noted that during construction, there would be a temporary increase in utility, phone, insurance and other basic operational costs. He also announced that the new facility will be environmentally friendly- incorporating solar power, low energy, high-efficiency lighting throughout the building, and rain gardens to mitigate storm water runoff.¹⁴⁶

As of December 2016, construction of the new operations facility was on schedule and within budget. The new operations facility is slated to feature a 765 kW rooftop solar array comprised of 2,286 solar panels at a cost of \$2,070,772. The estimated payback period for the cost

¹⁴⁶ Caruolo Test. at 6.

of the panels is nine years.¹⁴⁷ However, investigations into the possibility of implementing wind power were at early stages in December 2016.¹⁴⁸

The intervenors raised two distinct issues involving the Central Operations Facility: (1) the total cost of purchase/renovations; and (2) the allocation of costs to wholesale customers.

A. Cost of Purchase/Renovation

In her direct testimony, BCWA witness Marchand expressed concern that the costs associated with the central operations facility were going to exceed the limit approved in Docket No. 4571. She averred that in Docket No. 4571, Providence Water had requested rates that would allow it to service a \$30.0 million loan for the purchase and renovation of the Dupont Drive building. That loan was projected to yield \$27,843,000 in purchase and construction costs. The purchase price for the property was \$10.35 million. She alleged that the renovation costs were limited to \$16,272,843 for a total cost of the facility of \$26,622,843.¹⁴⁹ She noted that in response to discovery in this docket, construction remodel costs (including purchase) were reported by Providence Water to be \$27,678,714. Ms. Marchand claimed that these figures exceeded those presented to the Commission in Docket 4571.¹⁵⁰ Mr. Woodcock agreed with Ms. Marchand's concerns in his surrebuttal testimony.¹⁵¹

In rebuttal testimony, Providence Water witness Giasson confirmed that the cost for purchase and renovation for the new central operations facility on Dupont Drive will not exceed \$30 million.¹⁵² He identified the cost of purchase as \$10,387,154.50. Bond issuance costs totaled

¹⁴⁷ Caruolo Rebuttal Test. at 2; Providence Water's Response to BCWA 1-18; <http://www.ripuc.org/eventsactions/docket/4618-PWSB-DR-BCWA1-18d-SolarFeasibilityStudy.pdf>.

¹⁴⁸ *Id.* at 2-3.

¹⁴⁹ Marchand Test. at 3, *citing* Providence Water's Response to PUC 1-14.

¹⁵⁰ *Id.* at 4.

¹⁵¹ Woodcock Surrebuttal at 9.

¹⁵² Giasson Rebuttal Test. at 2; Providence Water's response to KCWA 1-27; <http://www.ripuc.org/eventsactions/docket/4618-PWSB-DR-BCWA1.pdf>.

\$2,326,681.61. When the purchase price and bond issuance costs are subtracted, \$17,286,163.89 remained for renovation costs. According to him, Providence Water will meet this target and will not exceed \$30.0 million in purchase and renovation costs. Mr. Giasson emphasized that the projected renovation cost provided in Docket No. 4571 was an estimate only.

The Commission noted that Providence Water clearly represented in Docket 4571 that its projected costs for renovations were estimates. In his direct testimony in Docket, 4571, Mr. Thomas Massaro reported a projected cost of acquisition and renovation at \$27.0 million. The Division's memorandum recommending approval of Providence Water's Docket 4571 request identified a purchase price of \$10.35 million and a \$17.5 for renovations as a reasonable cost for Providence Water's new facility.¹⁵³ Therefore, the Commission voted unanimously to find Providence Water in compliance with the budget cap of \$30.0 million approved in Docket 4571.

B. Allocation of Costs for the Central Operating Facility

In his direct testimony, KCWA witness Woodcock argued that the Commission's order in Docket No. 4571 provided that the costs for the Central Operations Facility would be allocated only to retail users, at least until Providence Water provided an analysis that shows any benefit from the facility to wholesale customers.¹⁵⁴ In support of his argument, Mr. Woodcock cited the following sentences from the body of the Commission's order in Docker No. 4571: "Agreeing that the rate request in this docket would not affect wholesale rates, Mr. Woodcock expressed concern about the rate impact in future cases. The witnesses agreed that an allocation of the central operations facility to various rate classes would be based on function."¹⁵⁵ Mr. Woodcock further

¹⁵³ Alberico Mancini and John Bell Mem. (Aug. 20, 2015); http://www.ripuc.org/eventsactions/docket/4571-DPU-PositionMemo_8-20-15.pdf.

¹⁵⁴ Woodcock Test. at 8.

¹⁵⁵ *Id.* at 6, *citing* page 21 of Commission Order No. 22065 (Sept. 9, 2015) (PUC Exh. #12); http://www.ripuc.org/eventsactions/docket/4571-ProvWater-Ord22065_9-1-15.pdf.

argued that in Docket No. 4571, he provided the Commission with specific detailed language to ensure that wholesale customers are not charged for what is essentially a retail facility.¹⁵⁶ Mr. Woodcock averred that “based on the order in Docket No. 4571, all costs should remain as retail only.”¹⁵⁷

In rebuttal testimony, Providence Water witness Harold Smith testified that while the parties did discuss and contemplate the allocation language presented by Ms. Woodcock in Docket 4571, there was no agreement on that issue. Mr. Smith acknowledged that while such an allocation method may be reasonable, it would be so only with available data to make allocation determinations. In this case, such data is not yet available.¹⁵⁸ Mr. Smith argued that the current default position for allocating the central operations facility costs should be maintained until the facility is in use and the necessary data is available to perform the allocations envisioned by the parties in Docker 4571.¹⁵⁹

Mr. Smith disputed Mr. Woodcock’s position that all costs associated with the central operations facility should be assigned to retail customers. He argued that the central operations facility is a capital asset which will be used primarily to ensure effective operation of the Providence Water system, which includes both function and services that are retail only and that

¹⁵⁶ “In its next general rate filing, Providence Water will add the value of the new COF assets to the total assets used for allocation of debt service. The new COF net asset value will be assigned to various functions including: administration, customer service (including meter reading, billing, collection, customer service representatives, and customer accounting), meters and metering, hydrants/fire protection, storage, transportation equipment, other tools and equipment, distribution mains, transmission mains, and other functions, as applicable) based on the use of the asset considering factors such as number of employees by function, square footage of the garage or work space by function, etc. Once assigned to functions, the costs assigned to each function will be allocated to cost of service categories based on the allocation methodology for like functions or categories presented on Sch. JDM-24 Settlement form the settlement agreement in Docket No 4406. It is recognized that some space in the new facility cannot be directly functionalized and allocated (e.g. central heating and air conditioning, employee parking, etc.) and this space will not be included in the calculation of allocation percentages used for the overall COF investment. This space will be allocated in proportion to the directly assignable space.” *Id.*

¹⁵⁷ Woodcock Test. at 9.

¹⁵⁸ Harold Smith Rebuttal Test. at 5.

¹⁵⁹ *Id.*

are common to all customers, including wholesale. Mr. Smith opined that to argue that wholesale customers receive no benefit from such an asset is unreasonable. Therefore, he submitted that the current default position for allocating costs of the central operating facility (using long-established Commission allocation factors) should be maintained until the central operations facility is in use and the necessary data is available to perform the allocation method proposed by Mr. Woodcock in Docket No. 4571.

The Commission found that while a new allocation method was in fact discussed in Docket No 4571, and such discussions were acknowledged in the Commission's order, the Commission neither adopted nor ordered such an allocation method.¹⁶⁰ While a full cost of service study is needed, until such time as it has been completed, it was determined to be appropriate to continue the use of allocators previously designated by the Commission.

11. Other Cost Allocation Issues

BCWA's chief concerns, other than the Central Operations Facility's cost allocation were Providence Water's calculation for lost and unaccounted for water and its allocation of unidirectional flushing costs to wholesale customers.

A. Lost and Unaccounted For Water

BCWA argued that Providence Water, although aware of the proper methodology to calculate lost and unaccounted for water, simply refused to do so, claiming a lack of reliable data.¹⁶¹ Ms. Marchand emphasized the fact that the American Water Works Association provides

¹⁶⁰ Indeed, the Commission's findings in Docket No. 4571 were limited to: (1) Providence Water had established the need for a new facility; (2) the property at 125 Dupont Drive in Providence, Rhode Island would meet Providence Water's needs. (3) Providence Water did not support a need for its \$2.448 million request; (4) the Commission limited Providence Water to \$2,077,000 in additional rate revenue plus two percent to fund the operating reserve under the terms of the Second Revised Settlement approved in Docket 4406; (5) Providence shall not exceed \$30.0 million in costs for the central operations facility and shall file reports within thirty days of reaching milestones listed in its response to PUC 1-5, and provide copies to all parties in the docket. PUC Order 22065 at 24-25, 27-28.

¹⁶¹ Marchand Test. at 6.

the methodology. Further, she argued that the Rhode Island State Water Resources Board under the State Water Efficiency Act, requires unaccounted-for-water to be reported annually. BCWA urged the Commission to deduct water used for flushing, running bleeders or blow offs, and fire department use from any unaccounted-for-water from the wholesale customers. She further urged the Commission to deduct at least two percent of the recorded meter use from the unaccounted-for allocation because she claimed that under-registration of meters can be a significant contribution to unaccounted for water as meters age.¹⁶²

KCWA witness Woodcock agreed with BCWA's position on this issue, noting that he had first raised this issue nearly a decade earlier in Providence Water Docket No. 3832.¹⁶³ Mr. Woodcock averred that the Commission accepted a new allocation for non-revenue (lost and unaccounted for) water in Docket 3945 (In re: Pawtucket Water Supply Board General Rate Filing). That method essentially divides the non-revenue water between wholesale and retail use based on relative water losses in transmission (allocable to all users), distribution (retail only) mains and service lines (retail only.) He claimed that in effect, non-revenue water is allocated based only on leaks or line losses. He agreed with Ms. Marchand's proposal that Providence Water be required to identify the non-revenue water sources and those that are only retail should be assigned to the retail customers before allocating the balance of non-revenue water to retail and wholesale customers.

In rebuttal testimony, Providence Water witness Giasson responded Ms. Marchand's concerns. First, he stated that Providence Water no longer performs continuous running blow-offs, now that it has adopted a Unidirectional Flushing Program. Next, as far as water used for flushing the distribution system for water quality, this amount is captured in the "Water Used by

¹⁶² *Id.*

¹⁶³ Woodcock Surrebuttal Test. at 9.

Company” line item. Third, although Providence Water may have had an issue in the past with open hydrants in the summer, this is no longer the case because the hydrants now requires a special tool to be opened. Fourth, for construction usage and unauthorized usage, this water is captured in the 95% allocation of unaccounted-for-water to the retail customer base. Fifth, errors occur in both retail and wholesale meters. Sixth, water is used to flush and disinfect the 78 inch and 102 inch aqueducts when they are dewatered and inspected. Therefore, he argued, it is reasonable to assume that Providence Water’s allocation of unaccounted for water is fair and reasonable.¹⁶⁴

In her surrebuttal testimony, Ms. Marchand did not yield from her initial position. She noted that Providence Water calculated unaccounted-for-water on a four-year average (2012-2015), not a three-year average (2013-2015) as initially presented in Providence Water’s direct testimony. Further, Providence Water acknowledged in discovery that the amounts used for FY 2012 and FY 2013 were greater than the amounts Providence Water reported to the Rhode Island Water Resources Board. She argued that the two most recent year average (FY 2014-2015) average should be used to calculated unaccounted for water.¹⁶⁵

Division witness Mierzwa contended that Ms. Marchand had not quantified any of her recommendations concerning the allocation of unaccounted-for-water and therefore, the reasonableness of her recommendations cannot be assessed.¹⁶⁶ Mr. Mierzwa was satisfied with Providence Water’s response to these issues and found that Providence Water’s proposed allocations of unaccounted-for-water appeared reasonable.¹⁶⁷

B. Unidirectional Flushing Expenses

¹⁶⁴ Giasson Rebuttal Test. at 3-4.

¹⁶⁵ Marchand Surrebuttal Test. at 7.

¹⁶⁶ Mierzwa Surrebuttal Test. at 6.

¹⁶⁷ *Id.*

BCWA challenged the allocation of cost of any flushing programs to the wholesale customers. According to Ms. Marchand, flushing programs, including unidirectional flushing, are only effective in the distribution system. She argued that it is not possible to develop enough velocity in the larger mains to flush sediments. She claimed that since the transmission system is a constant supply, and does not have static periods, there is no need to flush for water quality. Therefore, she advocated that any contractor, operational, employee, overhead, or other expense related to flushing should be removed from the wholesale allocation.¹⁶⁸

Division witness Mierzwa testified that he agreed with Providence Water's allocation of two percent of the unidirectional flushing program expenses to the wholesale customers. Although BCWA claimed that wholesale customers derived no benefits from this program, Mr. Mierzwa disagreed because portions of the transmission and distribution system are used to transport water to the connection points with wholesale customers.¹⁶⁹

The Commission did not alter Providence Water's allocations for unaccounted-for-water or the unidirectional flushing program. The Commission unanimously agreed that the cost allocation issues raised by the Intervenors be reviewed in Providence Water's next general rate filing through a new cost of service study, created anew, and without reference to prior Commission allocators.¹⁷⁰

C. Academy Avenue

KCWA raised the issue of the future of Providence Water's Academy Avenue facility, once Providence Water relocates into its new central operations facility. Mr. Woodcock indicated that he was concerned that once Providence Water moves to its new facility on Dupont Drive, the

¹⁶⁸ Marchand Test. at 7.

¹⁶⁹ Mierzwa Surrebuttal Test. at 8.

¹⁷⁰ PUC Open Meeting Minutes at 5 (Feb. 10, 2017).

City of Providence or Providence Water may move to sell the Academy Avenue building. If so, he alleged that the City will move to take the proceeds. Alternatively, the City could move to sell the property at a discounted price. In either case, Mr. Woodcock expressed concern that recovery of the funds to ratepayers would be quite difficult once the City accessed the funds.¹⁷¹

Mr. Woodcock asserted that the ownership of the facility is an issue that has long been in dispute and has been discussed in a series of PUC dockets over the years.¹⁷² He argued that prior PUC orders demonstrated that Providence Water had paid for all repairs and improvements for the building since 1927 and that Providence Water lists the Academy Avenue building as an asset. Therefore, he urged the Commission to order that proceeds from a future sale of Academy Avenue be placed in a restricted fund such as the Capital Fund. He concluded that since the costs of the Academy Avenue facility have been included in rates paid by all ratepayers, the proceeds should therefore benefit all ratepayers.

Finding the issue not yet ripe for review, the Commission voted unanimously to defer the issue of the disposition of Academy Avenue until Providence Water's next rate case, with the caveat, however, that Providence Water notify the Commission in the interim of any sale of the property and report on the specifics of that sale.¹⁷³

D. Public Fire Protection Charges

Providence Water proposed that all Fire Protection charges be increased by fifteen percent. Harold Smith explained that fire charges are used to recover the costs related to operating and maintaining the infrastructure necessary to ensure that water for fire protection is available and that flow and pressure charges are adequate to meet firefighting demands.¹⁷⁴ He further stated that

¹⁷¹ Woodcock Test. at 15.

¹⁷² Docket No. 2048, Docket No. 2304, and Docket No. 3163.

¹⁷³ PUC Open Meeting Minutes at 5 (Feb. 10, 2017).

¹⁷⁴ Harold J. Smith Test. at 11.

there were three kinds of fire protection charges: (1) Private Fire Protection charge; (2) Public Fire Protection charge; and (3) Providence Only Retail Fire Protection charge.

Mr. Smith explained that if the charges for fire protection were set at the level indicated by his cost allocation study, bills for the municipalities paying public fire protection charges would increase by approximately eighty-four percent, potentially resulting in rate shock for these customers. To mitigate such an impact, Providence Water proposed that all fire protection charges be set at a level that is fifteen percent higher than existing charges.¹⁷⁵

Division witness Jerome Mierzwa testified that with a few exceptions, he found Providence Water's COSS to be reasonable and appropriate for determining cost responsibility and establishing rates.¹⁷⁶ He opined that the fifteen percent increase sought by Providence Water for the fire protection charges should be maintained, even if the Commission reduced the authorized rate year increase sought by Providence Water.¹⁷⁷

In surrebuttal testimony, KCWA witness Woodcock argued that the fire protection charges are an important element to Providence Water's revenue stability. He noted that in PUC Docket No. 4611 (In re: Kent County Water Authority Application to Change Rates), the parties agreed to and the Commission accepted a thirty percent increase to fire protection charges when a COSS indicated an increase of seventy-six percent. Therefore, he concluded that the fire protection charges in this docket should also be increased to thirty percent.¹⁷⁸

The Commission voted unanimously to approve a fifteen percent increase to fire protection charges as a reasonable increase which would avoid rate shock. Even with the reallocation of fire protection costs to other customer classes, the increase to fire protection still exceeds the bill

¹⁷⁵ *Id.* at 11.

¹⁷⁶ Mierzwa Test. at 3.

¹⁷⁷ *Id.* at 10.

¹⁷⁸ Woodcock Surrebuttal Test. at 8.

impact to all other customer classes.¹⁷⁹ Providence Water was ordered to review the cost allocation of fire protection in the new cost of service allocation study to be filed in its next general rate case.

12. Payment in Lieu of Taxes

This issue was the most contentious of the docket. Providence Water sought authority to provide to the City of Providence a Payment in Lieu of Taxes (PILOT) in the amount of \$326,000. The purpose was to offset the City's loss of tax revenue caused by Providence Water's purchase of 125 Dupont Drive for its new Central Operations Facility, thereby removing it from the tax rolls.¹⁸⁰ Mr. Caruolo testified that Providence Water was voluntarily assuming the burden of making the City whole for its loss of tax revenue. He noted that if Providence Water had decided to purchase property outside the City of Providence, Providence Water would be required to pay real estate taxes much greater than the amount proposed under the PILOT. He contended that limiting the PILOT to \$326,000 for a fixed five-year period would be fair to all parties.¹⁸¹ He suggested the annual PILOT amount could be revisited in the next rate case. Ms. Parrillo contended that losing the tax revenue that the City could have otherwise received would be equivalent to the City of Providence taxpayers subsidizing Providence Water ratepayers.¹⁸²

The Division and all Intervenors strenuously opposed the PILOT. Division witness Ralph Smith reviewed Commission precedent rejecting PILOTS previously proposed by Providence Water (Order No. 14096 in Docket 2048),¹⁸³ Newport Water (Order No. 13947 in Docket No. 2029),¹⁸⁴ Pawtucket Water Supply Board (Order No. 13711 in Docket No. 1989),¹⁸⁵ and

¹⁷⁹ Revised Compliance Filing Schedules of Harold Smith; http://www.ripuc.org/eventsactions/docket/4618-PWSB-RevComplianceTariffs_2-16-17.pdf.

¹⁸⁰ At the time that Providence Water purchased Dupont Drive, its prior owner paid \$326,000 in real estate taxes to the City of Providence.

¹⁸¹ Hr'g. Tr. at 49 (Jan.24, 2017).

¹⁸² Parrillo Test. at 11.

¹⁸³ <https://clerkshq.com/Content/PUC-ri/orders/1992/14096.htm>.

¹⁸⁴ <https://clerkshq.com/Content/PUC-ri/orders/1992/13947.htm>.

¹⁸⁵ <https://clerkshq.com/Content/PUC-ri/orders/1991/13711.htm>.

Woonsocket Water Department (Order No. 14351 in Docket No. 2099).¹⁸⁶ He recommended removing funding for Providence Water’s proposed PILOT.¹⁸⁷ In his surrebuttal testimony, Mr. Smith indicated that the Division’s position on the PILOT had not changed, but that the Division would continue to explore the PILOT issues, particularly with respect to Providence Water’s overall service territory, governance structure, and tax exempt status.¹⁸⁸

KCWA witness Woodcock argued that Providence Water could provide no legal authority to support its position that the City of Providence is authorized to tax its own water department. He further noted that no other City of Providence department pays property taxes to the City.¹⁸⁹ Mr. Woodcock distinguished KCWA’s PILOT from Providence Water’s requested PILOT as unique and distinct on three bases: (1) PILOT payments are specifically called for in the legislation creating KCWA; (2) KCWA is not an “owning” agency that is looking to tax itself; and (3) the payments are fixed at the amounts that were historically paid at the time KCWA acquired the real property.¹⁹⁰ He further averred that allowing a PILOT would simply switch the burden of municipal tax-supported programs from taxpayers in a municipality (who benefit from these programs) onto all ratepayers, including those that reside outside the City and who already pay for their own municipal services through their local property taxes.¹⁹¹

BCWA witness Marchand concurred with Mr. Woodcock’s position that there was no justification for a PILOT in this case.¹⁹² While she acknowledged that the allocation of the proposed PILOT to wholesale customers was relatively minor, Ms. Marchand expressed concern

¹⁸⁶ <https://clerkshq.com/Content/PUC-ri/orders/1993/14351.htm>.

¹⁸⁷ Ralph Smith Test. at Sch. RCS-10.

¹⁸⁸ Ralph Smith Surrebuttal Test. at 11.

¹⁸⁹ Woodcock Test. at 4.

¹⁹⁰ *Id.* at 5.

¹⁹¹ *Id.* at 5-6.

¹⁹² Marchand Direct Test. at 4.

that the PILOT would increase over time, and that more of the payment may be assigned to wholesale customers.¹⁹³

In Newport Water Docket No. 2029, the Commission stated that it could not accept, philosophically or regulatorily, the notion of the City of Newport taxing its own water department. Additionally, the Commission held that to award a PILOT when rates permit an allowance (City Services) to cover general municipal services would overcompensate the municipality and would be tantamount to “two bites of the apple.”¹⁹⁴ In Providence Water, Docket No. 2048, the Commission found no justification to deviate from its prior rejections of a PILOT.¹⁹⁵

In moving to reject the PILOT, Chairperson Curran stated that the record in this matter failed to establish that a PILOT would provide any benefit to ratepayers. She also asserted that it would be unlawful, contrasting Providence Water’s proposal to voluntarily burden its ratepayers with a PILOT to legislation authorizing the PILOT paid by KCWA, an independent water authority, to the municipalities in which it operates.

Providence Water is a department of the City of Providence and is currently housed in a facility on which it pays no taxes.¹⁹⁶ Providence Water is a tax-exempt entity. It pays no property taxes on any other assets located in the City of Providence.¹⁹⁷ Members of the Board of Providence Water are appointed by the Mayor or City Council, the City Finance Director is also a member. Providence Water Supply Board is subject to the City’s hiring regulations, purchasing regulations, healthcare system, and pension system. It must follow the City’s policies and procedures.¹⁹⁸

¹⁹³ *Id.* at 5.

¹⁹⁴ Newport Water Department Proposed Changes in Rate Schedules, Docket No. 2029; <https://clerkshq.com/Content/PUC-ri/orders/1992/13947.htm>.

¹⁹⁵ Order No. 14096; <https://clerkshq.com/Content/PUC-ri/orders/1992/14096.htm>.

¹⁹⁶ There was a question of ownership of the Academy Avenue property but that issue has been deferred by the Commission.

¹⁹⁷ Ralph Smith Test. at 27.

¹⁹⁸ Hr’g. Tr. at 66-67, 76-77 (Jan. 24, 2019).

While Providence Water is regulated by the Commission and its revenues are derived from ratepayer dollars, Providence Water is not an entity independent of the City. It is an Enterprise Fund of the City. Its employees are all city employees and its board members are all appointed by the City. The proposed PILOT was not negotiated.¹⁹⁹ Instead, according to Mr. Caruolo, he both received a letter from the City's Assistant Solicitor indicating the City can tax Providence Water and a tax bill for \$326,000, the amount that had previously been assessed to Bank of America, a for-profit entity not associated with the City.²⁰⁰ There was no claim that the proposal to "make Providence whole" was the result of an arms-length negotiation. It is unlikely the City and Providence Water could credibly claim such a negotiation could even be possible given the relationship between the City and one of its departments. There is no way to expect a City employee or appointee to be in an equal bargaining position with the appointing authority in such a negotiation. Therefore, there would be no one in a position to reasonably represent the ratepayer-taxpayer in a challenge to a City assessment or in a negotiation of a PILOT. It would also not be reasonable to expect the Division to perform an after-the-fact review of the reasonableness of an outcome to such an unbalanced process.

The Commission voted 2-1 to reject the PILOT.²⁰¹

VIII. Compliance Filings

Providence Water was ordered to submit compliance tariffs by February 14, 2017 for consideration at a February 16, 2017 Open Meeting. On February 15, 2017, Providence Water submitted its first compliance filing in this matter. On the same day, KCWA objected on the basis that it was unable to form an opinion on the reasonableness of the filing. At the February 16, 2017

¹⁹⁹ Providence Water's Response to PUC 1-12.

²⁰⁰ Providence Water's Response to BCWA 1-4.

²⁰¹ Commissioner DeSimone would have granted the PILOT.

Open Meeting, the Commission rejected the compliance tariffs, finding that Providence Water had included an upward adjustment of \$300,000 to capital reimbursement that offset the downward adjustment the PUC ordered from the IFR replacement fund. Thus, because of this offset, the adjustment to IFR resulted in no reduction to the revenue requirement. The PUC clarified that it made one single adjustment, a reduction of \$300,000 to the infrastructure replacement fund based on a three-year average that was calculated for capitalized labor and overhead. The PUC made no corresponding upward adjustment to capital reimbursement. While the Commission believes it will be unnecessary, if Providence Water were to find it needed additional funding, it has the unrestricted operating allowance to draw upon.²⁰²

Later on February 16, 2017, Providence Water submitted an amended compliance filing and it was approved by the Commission at a February 20, 2017 Open Meeting. As part of the amended compliance filing, Providence Water asked the PUC to consider approving the initial compliance filing. The Division filed a position stating that the rates under each compliance filing are correctly calculated based on the revenue requirement contained in each of the compliance filings. After review, Chairperson Curran moved to accept the second compliance filing. She noted that while the PUC discussed capitalized labor in the February 10, 2017 Open Meeting, the PUC did intend to include a reduction to revenues. When the PUC looked at the IFR component, it made a \$300,000 downward adjustment to the IFR based on capitalized labor and overhead component.²⁰³

IX. BCWA Motion for Relief From Order

On April 6, 2017, BCWA filed a Motion for Relief From Order related to the decision to allow an allocation of costs of the new central operations facility, with the East Smithfield

²⁰² PUC Open Meeting Minutes (Feb. 16, 2017).

²⁰³ PUC Open Meeting Minutes (Feb. 20, 2017).

acquisition, and with the unidirectional flushing to wholesale customers. BCWA argued that: (1) No evidence exists in the Docket 4618 record to justify the allocation of COF costs to the wholesale customers; (2) unlike the East Smithfield and Unidirectional Flushing Costs, the Docket 4618 record contains specific evidence of the central operations facility costs allocated to the wholesale customers; and (3) the BCWA, and other wholesale customers, will pay these unsupported central operations facility costs for three to five years before Providence Water files another general rate filing. KCWA filed a memorandum in support of BCWA's position. The parties argued that there had been an agreement on cost allocation methodology in Docket No. 4571.

Providence Water objected to BCWA's motion arguing that procedurally, the motion was premature. Providence Water also argued that BCWA's arguments were a reiteration of the arguments previously presented and rejected by the Commission. Finally, Providence Water argued that contrary to BCWA's allegations, the share of the costs allocated to wholesale customers in this matter is smaller than the wholesale allocations approved by the Commission in the last two dockets. Providence Water suggested that the Commission's decision to order a new cost of service allocation to address these issues was appropriate. Providence Water specifically disputed any agreement in Docket No. 4571 regarding a cost allocation methodology.

The Division also objected to BCWA's motion positing that the Commission correctly permitted Providence Water to allocate central operations facility costs to wholesale customers subject to requiring a new cost of service study in Providence Water's next rate case. The Division noted that the central operations facility was not yet operational. As such, the record lacks sufficient data from which to properly allocate costs. The Division stated that in the absence of such reliable data, the Commission was within its jurisdiction to rely on the expert testimony to

justify a temporary departure from strict cost of service ratemaking methodologies.²⁰⁴ The Division further posited that a \$0 allocation to wholesale customers would be unreasonable because wholesale customers will benefit from the central operations facility as discussed by Mr. Mierzwa and Harold Smith. Finally, the Division argued that the facts surrounding the central operations facilities contained in Docket Nos. 4406 and 4571 did not suggest an agreement that no costs related to the central operations facility would be allocated to wholesale customers.

On May 4, 2017, the Commission denied BCWA's motion finding it not ripe for review nor supported by the record. The Commission noted that the arguments made by BCWA were already presented to the Commission and ruled upon. Additionally, in the Commission's opinion, the arguments made by BCWA regarding the allocation of central operations facility costs defy common sense. It would be impossible for Providence Water to provide service without an administrative building, of which it currently has two. The addition of a singled central operations facility should provide for more efficient management. However, as the Division explained, while Providence Water has incurred costs with associated cost recovery, because the central operations facility is not yet fully functional, those costs cannot be fully functionally separated and allocated to customer classes. That will happen in the next general rate case.²⁰⁵

Accordingly, it is hereby,

(23666) ORDERED:

1. The Settlement Agreement executed by Providence Water Supply Board and the Division of Public Utilities and Carriers on January 23, 2017 is hereby rejected.
2. Providence Water Supply Board is allowed a \$5,821,862 increase in its revenue requirement, to support a total cost of service of \$75,305,829.

²⁰⁴ Div. Mem. at 4-5 (citations omitted).

²⁰⁵ PUC Open Meeting Minutes (May 4, 2017).

3. Providence Water Supply Board's request for a Payment In Lieu of Taxes is hereby rejected.
4. Providence Water Supply Board shall increase pro forma revenues annually by \$175,000 to reflect contractual annual tax refund payments from the Town of Foster.
5. Providence Water Supply Board shall add \$116,700 to pro forma revenues annually for a period of three years, to credit ratepayers with Foster Tax Refunds received in 2015 and 2016.
6. A transfer of \$1.225 million from the Revenue Reserve account to the Capital account is hereby approved.
7. Annual funding of \$250,000 for a Lead Service Replacement Program revolving customer loan is hereby approved. Providence Water shall file an annual report on the status of these funds and shall meet with the PUC and Division staff to develop the report and design a program assessment methodology.
8. Paying the Cox cable bill from the restricted Insurance account is prohibited. Providence Water Supply Board shall submit quarterly reporting on the Insurance Fund with an explanation of how any non-premium and non-claim payments reduce insurance expense.
9. Providence Water Supply Board shall restrict the following accounts: Capital (\$2,127,000); Infrastructure Replacement (\$27,300,000); AMR/Meter Replacement (\$500,000); Insurance (\$2,302,113); Vehicle & Equipment (\$600,000); Western Cranston (\$40,000); Chemicals (\$2,800,000); Revenue Reserve (\$362,119); Private Side Lead Service Replacement (\$250,000); and Property Tax Refund (no funding from rates).

10. The restricted revenue reserve fund will continue to be funded at 2% of revenues and will accrue to a cap of 6%. If the restricted revenue reserve fund reaches the cap prior to the filing of the next rate case, Providence Water shall advise the Commission and propose a mechanism for ceasing funding or for use of the collections for the benefit of ratepayers.
11. Providence Water Supply Board shall continue with the current reporting requirements but shall meet with PUC and Division staff to develop improved quarterly reporting.
12. Providence Water Supply Board shall remove the “due to” and “due from” designations in its reports.
13. Providence Water Supply Board shall update and report on energy efficiency awards as part of a milestone report in Docket No. 4571.
14. For its next general rate filing, Providence Water Supply Board shall complete and submit a new cost of service study conducted without reference to previously used Commission adjusted allocators.
15. Consideration of the disposition of Providence Water Supply Board’s Academy Avenue site is not yet ripe for review and shall be deferred to Providence Water Supply Board’s next general rate case, with the caveat that Providence notify the Commission of any sale and report on the specifics of that sale.
16. Providence Water Supply Board shall address the issue of the allocation of fire protection charges in its new cost of service study.
17. Providence Water Supply Board shall address the allocation of the central operations facility in its new cost of service study.

18. Providence Water Supply Board shall address the allocation of the unidirectional flushing program in its new cost of service study.
19. Providence Water Supply Board is in compliance with the budget cap approved for the Central Operations Facility in Commission Docket No. 4571.
20. Providence Water Supply Board's Compliance Tariffs filed on February 15, 2017 are hereby rejected.
21. Providence Water Supply Board's Compliance Tariffs filed on February 17, 2017 are hereby approved for effect February 20, 2017. The Cost of Service Summary and Summary of Compliance Adjustments, filed on February 17, 2019, are attached to this Order as Exhibit A and incorporated herein.
22. Bristol County Water Authority's Motion to Reopen, filed on April 6, 2017, is hereby denied.
23. Providence Water Supply Board shall comply with all other findings and directives in this order.

EFFECTIVE AT WARWICK, RHODE ISLAND ON FEBRUARY 20, 2017, PURSUANT TO OPEN MEETINGS HELD ON FEBRUARY 10, 2017, FEBRUARY 16, 2017, FEBRUARY 20, 2017, and MAY 4, 2017. WRITTEN ORDER ISSUED ON SEPTEMBER 16, 2019.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran, Chairperson

Marion Gold, Commissioner

Herbert DeSimone, Commissioner*

*Commissioner DeSimone concurred in this decision, with the exception of dissenting on the issues of City Services and the PILOT.

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws §39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.